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10/820,140	04/08/2004	Darren McClelland	14671	6658
293	7590	03/31/2006	EXAMINER	
Ralph A. Dowell of DOWELL & DOWELL P.C. 2111 Eisenhower Ave Suite 406 Alexandria, VA 22314			SANDY, ROBERT JOHN	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



### DETAILED ACTION

This is a final Office action in response to the reply received on 09 January 2006.

Claims 28-31 and 41 have been amended.

Claims 1-42 are pending.

### *Claim Objections*

Claims 28 and 29 are objected for the following informalities:

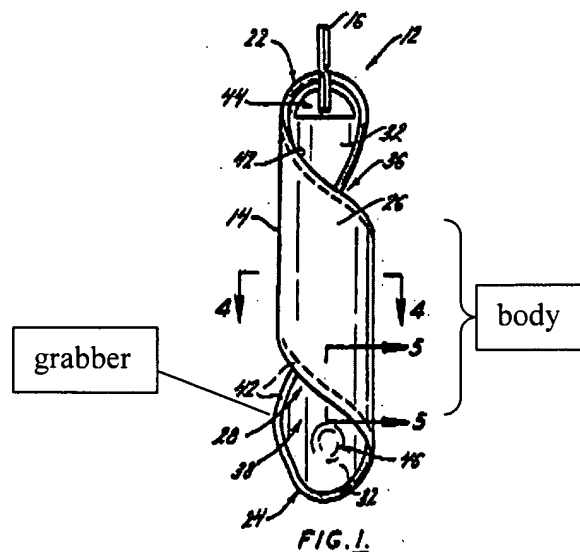
In claim 28, line 2, the phrase “ as the cord, a lace portion extending...” is of non-idiomatic English.

In claim 29, line 2, the phrase “ as the cord, a skatelace portion extending...” is of non-idiomatic English.

### *Response to Arguments*

Applicant's arguments filed 09 January 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Howell fails to show “a *grabber extending from the body and defining a groove therebetween configured to grip the cord therein*”, it is noted that the “grabber” in the Howell reference is has been referred to the “extending portion at end 24, best shown in Figs. 1 and 3” as stated in the prior Office action. Fig. 1 of Howell (U. S. Patent No. 5,199,758) has been provided below for further clarification.



In response to applicant's argument that Thibeault fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a "groove" as defined by "a long narrow channel or depression") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In view of applicant's amendment to claims 28 and 29, the claim objections indicated in the prior Office action each have been withdrawn.

In view of applicant's amendment to claims 30 and 31, the claim rejection under 35 USC §112 indicated in the prior Office action each have been withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9-16, 22-29, 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Howell (U. S. Patent No. 5,199,758). Howell('758) discloses an apparatus (12) capable of tightening a cord, the apparatus comprising: a body (14); and a grabber (extending portion at end 24, best shown in Figs. 1 and 3) extending from the body and defining a groove (34) therebetween configured to capably grip a cord therein;

(concerning claim 2) the body has a shape configured to be manually grippable;

(concerning claim 3) the body has a generally cylindrical shape;

(concerning claim 4) the body has a length at least as great as a width of an intended user's hand;

(concerning claim 9) the grabber is generally tongue-shaped;

(concerning claim 10) the grabber extends generally circumferentially and radially outwardly from an outer surface of the body at a central region thereof;

(concerning claim 11) the grabber comprises a base portion at which the grabber merges with the body, and a tip portion narrower than the base portion (see Figs. 1 and 3);

(concerning claim 12) the body and the grabber are rigid (“rigid”, col. 3, line 36);

(concerning claim 13) regarding the limitation of “wherein the body and the grabber are formed from a single mold” renders claim 13 as a product-by-process claim wherein the process relied upon is “formed from a single mold”. This limitation is not given an patentable weight since the structural limitations of the claimed apparatus are met.

(Concerning claim 14) the body and the grabber comprise an inner core material (i.e., the inner core material exists between the outer surface of the body and the inner surface of the body);

(concerning claim 15) the inner core material comprises a plastic (“plastic”, col. 3, line 35);

(concerning claim 16) the inner core material comprises a resin (a.k.a. “plastic”);

(concerning claim 22) the grabber is configured to capably grab a cord;

(concerning claim 23) the grabber is capable of being insertable under a cord to grab the cord;

(concerning claim 24) the grabber is generally tongue-shaped and comprises a tip portion (tip portion best shown in Figs. 1 and 3) capable of being insertable under the cord to grab the cord;

(concerning claim 25) the body is rotatable about a central axis thereof to grip the cord in the groove;

(concerning claim 26) the body is pullable in a direction non-parallel to the central axis of the body;

(concerning claim 27) the body is pullable in a direction substantially perpendicular to the central axis of the body;

(concerning claim 28, as best understood, recognizing the intended use language of the claim) the groove is configured to grip a lace portion of the cord extending between eyelets of a footwear item;

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(concerning claim 29, as best understood, recognizing the intended use language of the claim) the groove is configured to grip a skatelace portion of the cord extending between eyelets of a skate.

Concerning claims 41 and 42, Howell ('758) discloses an apparatus (12) for tightening a cord, the apparatus comprising: a body (14); means for grabbing the cord (tip portion at end 24); and means (slot 34) for gripping the cord between the means for grabbing and the body; and

(concerning claim 42) means (grippable exterior surface 26 and body 14) for facilitating pulling of the body.

Claims 1-4, 9, 10, 12, 14, 22-29, and 32-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Thibeault (U. S. Patent No. 3,771,699). Thibeault ('699) discloses the claimed apparatus and method of tightening a cord in Figures 1-4 and column 1, line 38 through column 2, line 17. The hook 18 is analogous to the structural limitations of the grabber.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howell ('758). Howell ('758) discloses the claimed apparatus except for wherein a pair of apparatuses are provided, wherein the respective grooves are configured to grip first and second respective cord portions therein. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided at least a pair of apparatuses by Howell ('758) when one desires to carry a plurality of articles handled among more than one hand of a user to carry the articles.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howell ('758), or Thibeault ('699). Howell ('758) and Thibeault ('699) each disclose the claimed apparatus except for wherein: the body has a length of at least one-half decimeter; the body has a length of at least one decimeter; the body has a width of at least one centimeter; and the body has a width of at least two centimeters.

Howell ('758) and Thibeault ('699) are each silent to the dimensional characteristics of the disclosed device. However, it would have been an obvious matter of design choice to modify the devices of Howell ('758) and Thibeault ('699) for their respective bodies to have a length of at least one-half decimeter; the bodies having a length of at least one decimeter; the bodies having a width of at least one centimeter; and the bodies having a width of at least two centimeters, since change in size is generally recognized as being within the level of ordinary skill in the art. Further, applicant has not disclosed that these specific dimensional characteristics solves any stated problem or produces an unexpected result.

#### ***Allowable Subject Matter***

Claims 17-21 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Furthermore, applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**

Robert J. Sandy  
Primary Examiner  
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